

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nick Kuczek	Team: Squad #08	CCRB Case #: 202300792	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/26/2023 4:00 AM	Location of Incident: 59th Street/Lexington Avenue N/R-line subway station	18 Mo. SOL 7/26/2024	Precinct: 18		
Date/Time CV Reported Fri, 01/27/2023 3:40 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 01/27/2023 3:40 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Huanxin Chen	28277	957451	TD 4
2. PO Michael Zhang	19484	968202	TD 4
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Amaury Baez	15579	957348	TD 4
2. LT SA Ian Constantine	00000	911630	TD 4
3. PO Wade Liu	07774	958824	TD 4

Officer(s)	Allegation	Investigator Recommendation
A . PO Huanxin Chen	Discourtesy: Police Officer Huanxin Chen spoke discourteously to § 87(2)(b)	
B . PO Huanxin Chen	Off. Language: Police Officer Huanxin Chen made offensive remarks to § 87(2)(b)	
C . Officers	Discourtesy: Officers acted discourteously toward § 87(2)(b)	
D . PO Huanxin Chen	Discourtesy: Police Officer Huanxin Chen spoke discourteously to § 87(2)(b)	
E . PO Huanxin Chen	Off. Language: Police Officer Huanxin Chen made offensive remarks to § 87(2)(b)	
F . PO Huanxin Chen	Abuse: Police Officer Huanxin Chen refused to provide his shield number to § 87(2)(b)	
G . PO Michael Zhang	Abuse: Police Officer Michael Zhang refused to provide his shield number to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via on-line website on January 27, 2023.

On January 26, 2023, at approximately 4:00 AM, PO Huanxin Chen, PO Amaury Baez, Lt. Ian Constantine, PO Michael Zhang, and PO Wade Liu of Transit District 4 responded to a call to verify if an individual inside the 59 Street/Lexington Avenue subway station in Manhattan needed to be removed to the hospital. Upon arrival, § 87(2)(b) laid on the edge of the platform, and PO Baez called for EMS to respond to the scene. While waiting for EMS to arrive on scene, a train pulled into the station and PO Chen told the train conductor, “A lot of crazies out here,”

(Allegation A – Discourtesy: § 87(2)(g) (Allegation B – Offensive Language: § 87(2)(g) and officers allegedly laughed, pointed at, and made jokes at § 87(2)(b) expense (Allegation C – Discourtesy: § 87(2)(g) Upon EMS’ arrival on scene, § 87(2)(b) refused to answer their questions, and PO Chen told § 87(2)(b) “Sir, if you are not going to cooperate, we’re going to have to put handcuffs on you and put you as a crazy person,” (Allegation D – Discourtesy: § 87(2)(g) (Allegation E – Offensive Language: § 87(2)(g) Officers lifted § 87(2)(b) off the ground, placed him in an EMS transport chair, and § 87(2)(b) requested the shield numbers of all officers, which PO Chen and PO Zhang allegedly refused to provide (Allegation F – Abuse of Authority: § 87(2)(g) (Allegation G – Abuse of Authority: § 87(2)(g) § 87(2)(b) was then removed to § 87(2)(b) Hospital.

§ 87(2)(b) was not arrested or summonsed as a result of this incident.

The investigation obtained the Body-worn camera footage of Lt. Constantine, PO Chen, PO Baez, PO Zhang, and PO Liu (Board Review 10). The investigation did not obtain MTA surveillance footage of this incident.

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Huanxin Chen spoke discourteously to § 87(2)(b).

Allegation (B) Offensive Language: Police Officer Huanxin Chen made offensive remarks to § 87(2)(b).

Allegation (C) Discourtesy: Officers acted discourteously toward § 87(2)(b).

Allegation (D) Discourtesy: Police Officer Huanxin Chen spoke discourteously to § 87(2)(b).

Allegation (E) Offensive Language: Police Officer Huanxin Chen made offensive remarks to § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer Huanxin Chen refused to provide his shield number to § 87(2)(b).

Allegation (G) Abuse of Authority: Police Officer Michael Zhang refused to provide his shield number to § 87(2)(b).

§ 87(2)(b) provided a statement at the CCRB on March 7, 2023. He stated that on January 26, 2023, at approximately 4:00 AM, he was on a Manhattan-bound N train near downtown Brooklyn when he began to feel unwell with what he believed to be food poisoning and collapsed on the floor of the train. § 87(2)(b) lay on the floor for about thirty minutes before he crawled to the door to the conductor cabin and began kicking it to get the conductors attention. The conductor opened the door and § 87(2)(b) told him that he needed an EMT. The conductor closed the door without saying anything. § 87(2)(b) pulled himself up to reach the emergency brake and pulled it,

stopping the train on the platform at the 59 Street/Lexington Avenue subway station in Manhattan.

When the train doors opened, § 87(2)(b) crawled off the train and lay face down on the platform edge. Approximately five minutes later, police arrived on the platform and began asking § 87(2)(b) questions, such as what his name was and what was wrong. § 87(2)(b) did not see how many police officers were on scene because he remained face down but became angry with the officers because he was unable to answer their questions in his current medical state. § 87(2)(b) cursed at the officers in response to their questioning and requested medical assistance. While waiting for medical personnel to arrive, § 87(2)(b) heard the officers laughing, joking, and pointing at him, and believed that it was being directed at him, because he was the focus of attention during this incident. § 87(2)(b) could not detail this further and did not recall any specific jokes or statements that were made by officers, or which officers did so.

About twenty minutes later, two EMTs arrived on scene, and two police officers lifted § 87(2)(b) off the platform, placed him on an EMT transport chair, and handcuffed him. § 87(2)(b) was carried out of the subway station, placed in the back of an ambulance, and transported to § 87(2)(b) Hospital (Board Review 07).

PO Chen testified at the CCRB on April 26, 2023. He stated that on January 26, 2023, at approximately 4:00 AM, he and PO Baez responded to a radio call to verify if an individual inside the 59 Street/Lexington Avenue subway station in Manhattan needed to be removed to the hospital.

PO Chen and PO Baez entered the subway station and observed § 87(2)(b) lying face-down on the subway platform edge, about one foot from the tracks. PO Chen and PO Baez both asked § 87(2)(b) several times what was wrong, and § 87(2)(b) yelled at and cursed at them repeatedly in a loud and angry tone of voice. PO Chen asked § 87(2)(b) if he could move further from the tracks for safety, and § 87(2)(b) continued to curse at him. About ten minutes later, PO Baez requested for EMS to respond, and Lt. Constantine arrived on scene. Lt. Constantine asked § 87(2)(b) what was wrong, and asked if he could get up and move away from the platform edge, and § 87(2)(b) repeatedly cursed and yelled at him.

About ten to fifteen minutes later, two EMS personnel arrived on scene with a transport chair. The two EMS personnel asked § 87(2)(b) what was wrong, where he was injured, and asked for him to cooperate and get up and sit in the chair. § 87(2)(b) cursed and yelled profanity at them in response.

About fifteen minutes later, PO Zhang and PO Liu arrived on scene, and they, along with PO Chen, and PO Baez, lifted § 87(2)(b) off the ground and placed him upright in the EMS transport chair. § 87(2)(b) was handcuffed, carried out of the subway station, and transported to the hospital. PO Chen did not laugh or make jokes at § 87(2)(b) expense during this incident and did not see or hear any other officer do this.

PO Chen was presented with PO Baez's BWC footage (Board Review 10). The footage was played from three minutes and five seconds to three minutes and nineteen seconds, capturing PO Chen speaking with an MTA conductor on a Queens-bound N train, and telling the conductor, "A lot of crazies out here." PO Chen stated that he was not talking about § 87(2)(b) when he made this statement, and only meant that there are a lot of crazy people in the city, and that he wanted the conductor to be careful. The footage was played from seventeen minutes and twenty-four seconds to seventeen minutes and thirty-three seconds, capturing PO Chen state, "Sir, if you are not going to cooperate, we're going to have to put handcuffs on you and put you as a crazy person." PO Chen stated that he meant they would have to treat § 87(2)(b) as an emotionally disturbed person if

he did not comply. PO Chen stated that a person in their right mind-set would not be acting the way that § 87(2)(b) was acting and that he did not want to use the term “EDP,” as he did not believe § 87(2)(b) would understand what he meant. PO Chen stated that he used the word “crazy,” because English is his second language, and that his vocabulary is not extensive enough to know a word synonymous with “emotionally disturbed person,” to use alternatively. PO Chen stated that it was not his intention to belittle or offend § 87(2)(b) in any way with this statement, and that he only wanted to inform § 87(2)(b) of what would happen if he did not voluntarily comply with them. The footage was played from thirty-two minutes and thirty-four seconds to thirty-two minutes and forty-six seconds, capturing § 87(2)(b) state that he wants all badge numbers while he was being handcuffed in the EMS transport chair. PO Chen stated that he did not independently recall hearing § 87(2)(b) say this, and that while he did not provide his shield number to § 87(2)(b), he did not purposely refuse to provide it, as he was focused on handcuffing § 87(2)(b). PO Chen stated that because § 87(2)(b) had directed so much profanity at him throughout the incident, he was zoning § 87(2)(b) out to focus on getting § 87(2)(b) detained and transported for medical treatment (Board Review 08).

PO Zhang testified at the CCRB on April 26, 2023. PO Zhang’s testimony was consistent with that of PO Chen’s, in that upon his arrival, he, PO Liu, PO Chen, and PO Baez lifted § 87(2)(b) into the EMS transport chair, carried him out of the subway station, and placed him in the back of an ambulance. PO Zhang did not laugh or make jokes at § 87(2)(b) expense during this incident and did not see or hear any other officer do this.

PO Zhang de-activated his BWC and rode with § 87(2)(b) in the back of the ambulance to § 87(2)(b) while PO Liu followed in their police vehicle. Once inside the hospital, § 87(2)(b) asked PO Zhang for his name and shield number, and PO Zhang verbally provided it to him.

PO Zhang was presented with PO Baez’s BWC footage (Board Review 10). The footage was played from thirty-two minutes and thirty-five seconds to thirty-two minutes and forty-five seconds, capturing § 87(2)(b) state that he wants all badge numbers while he was being handcuffed in the EMS transport chair. PO Zhang did not independently remember hearing this in the moment. When asked why he did not provide his shield number after § 87(2)(b) request, PO Zhang stated that he did not remember hearing it (Board Review 09).

PO Baez’s BWC footage captured the entirety of his, Lt. Constantine, PO Chen, PO Zhang, and PO Liu’s interactions with § 87(2)(b) prior to being removed to the hospital, and Lt. Constantine, PO Chen, PO Zhang, and PO Liu’s BWC footage were all consistent with that of PO Baez’s. At three minutes and ten seconds, a Queens-bound N train arrives at the station, with the conductor car window stopping directly in front of PO Chen. At three minutes and eighteen seconds, PO Chen tells the conductor, “Lot of crazies out here.” § 87(2)(b) then curses at PO Chen, and PO Chen states that he was not talking about him. At seventeen minutes and twenty-five seconds, PO Chen tells § 87(2)(b) that if he does not cooperate with them, they will have to put handcuffs on him and, “Put him as a crazy person,” with § 87(2)(b) cursing at him in response. At thirty-two minutes and forty seconds, while being strapped into the EMS transport chair, § 87(2)(b) states, “I want all badge numbers,” with PO Baez, PO Chen, Lt. Constantine, PO Zhang, and PO Liu all standing directly around him. At thirty-two minutes and forty-three seconds, PO Liu verbally provides his shield number to § 87(2)(b). At thirty-seven minutes and fifty-two seconds, while outside the ambulance being placed on a stretcher, § 87(2)(b) begins looking at each officers’ name plate and stating their name, and at thirty-seven minutes and fifty-four seconds, PO Baez verbally provides his name and shield number to § 87(2)(b) (Board Review 10).

Procedure number 200-02 in the NYPD Patrol Guide states that “In partnership with the community, we pledge to: Value human life, respect the dignity of each individual and render our services with courtesy and civility” (Board Review 11).

According to NYPD Patrol Guide Procedure 203-09, a member of service shall courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests them to do so (Board Review 12).

BWC footage reveals that at no point does any officer point at, laugh at, or make jokes at the expense of § 87(2)(b) during this incident. § 87(2)(g)

PO Chen’s statement of, “A lot of crazies out here,” and his use of the words “crazy person,” as an alternative to referring to § 87(2)(b) as being an emotionally disturbed person were gratuitous, and unnecessary. While it’s understandable that § 87(2)(b) may not have understood the acronym “EDP,” there were other ways PO Chen could have communicated this to § 87(2)(b) aside from referring to him as “crazy.” § 87(2)(g)

While it was not alleged by § 87(2)(b) PO Baez’s BWC footage revealed that § 87(2)(b) made a clear and audible request for all officers’ shield numbers. At the time of § 87(2)(b) request, the officers appeared to be in a reasonable position to hear § 87(2)(b) and to provide their information, as they were not engaged in police action that would reasonably preclude them from providing such information. PO Chen stated that he did not independently recall hearing § 87(2)(b) request his information and acknowledged not providing his shield number to § 87(2)(b). Given PO Chen’s proximity to § 87(2)(b) at the time of his clearly audible request, the investigation determined that PO Chen likely heard the request. § 87(2)(g)

While PO Zhang is not seen providing his shield number to § 87(2)(b) on BWC, he said that § 87(2)(b) requested his name and shield number while at the hospital, and that he provided the information there. BWC was not active during this, and at no point prior to de-activating BWC did PO Zhang provide his shield number to § 87(2)(b). Although § 87(2)(b) did not provide the investigation with PO Zhang’s shield number, there was no way for the investigation to verify whether PO Zhang provided his information to § 87(2)(b) at the hospital. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 01).
- PO Chen has been a member of service since January 7, 2015, and has been a subject in one CCRB complaint and six allegations, none of which were substantiated. § 87(2)(g)

- PO Zhang has been a member of service since July 1, 2019, and has been a subject in two CCRB complaints and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 3, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 06).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- The RPBP Unit reviewed this complaint and ultimately decided it did not contain actionable allegations of Racial Profiling or Bias-Based Policing.

Squad: 8

Investigator:	<u>Nicholas Kuczek</u>	<u>Investigator Nicholas Kuczek</u>	<u>05/08/2023</u>
05/05/2023	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>05/08/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date